

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA, ) No. 3-05-70706  
14 Plaintiff, ) [PROPOSED] ORDER RE WAIVER  
15 v. ) OF TIME UNDER F.R.Cr.P. 5.1 AND  
16 ) FINDING EXCLUDABLE TIME  
17 ) UNDER SPEEDY TRIAL ACT  
18 MICHAEL J. FOX, ) 18 U.S.C. § 3161(b); (h)(8)(A)&(B)(iv)  
19 Defendant. )  
20 \_\_\_\_\_ )

21 The parties appeared before the Court on October 6, 2005. The defendant was  
22 represented by Assistant Federal Public Defender Elizabeth Falk, and the United States  
23 was represented by Assistant United States Attorney Susan Badger. A criminal complaint  
24 was filed in this matter on August 30, 2005, and the defendant made his initial appearance  
25 before Magistrate Zimmerman that same date. The defendant was released on an  
26 unsecured personal recognizance bond. Upon the motion of the defendant, Magistrate  
27 Zimmerman found that Mr. Fox knowingly and voluntarily waived time for indictment  
28

[PROP.] ORDER  
[3-05-70706]

1 pursuant to Rule 5.1 of the Federal Rules of Criminal Procedure, and that time was  
2 excluded under the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(8)(A) & (B)(iv).

3 At the appearance on October 5, 2005, AFD Falk advised the Court that she was  
4 in the process of reviewing discovery with her client and was engaged in discussions with  
5 the government regarding pre-indictment settlement of the case. The defendant indicated  
6 that he was prepared to waive time for indictment under Rule 5.1(c) of the Federal Rules  
7 of Criminal Procedure in order to facilitate the discussions about a possible resolution.

8 The parties agreed to continue the matter to November 1, 2005 at 9:30 a.m. before  
9 Magistrate Judge Edward Chen for arraignment or preliminary hearing. In light of the  
10 need for time for effective preparation, taking into account due diligence, the defendant  
11 also requested that the time between October 6, 2005 and November 1, 2005 be excluded  
12 from the time requirements of the Speedy Trial Act.

13 Upon the request of the parties and good cause appearing, the Court accepts the  
14 defendant's waiver of time for indictment under F.R.Cr.P. 5.1(c). Further, the Court finds  
15 that the time between October 6, 2005 and November 1, 2005 is excluded from the time  
16 requirements of the Speedy Trial Act, 18 U.S.C. 3161(b), in order to provide the parties  
17 reasonable time for effective preparation, that is, to review discovery and discuss possible  
18 settlement of the case, taking into account due diligence. 18 U.S.C. 3161(h)(8)(A) &  
19 (B)(iv).

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21 IT IS SO ORDERED.



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[PROP.] ORDER  
[3-05-70706]